

[Third Reprint]

**SENATE, No. 2719**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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INTRODUCED APRIL 25, 2013

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**Senators Pou, Ruiz, Assemblywoman Watson Coleman and Assemblyman Conaway**

**SYNOPSIS**

Enhances penalties for certain firearms offenses; designated as Anti-Gun Trafficking Act of 2013.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Law and Public Safety Committee on June 6, 2013, with amendments.

(Sponsorship Updated As Of: 6/21/2013)

1 AN ACT concerning penalties for certain firearms offenses <sup>1</sup>,  
2 designated as The Anti-Gun Trafficking Act of <sup>3</sup>[Act of]<sup>3</sup>  
3 2013,<sup>1</sup> and amending N.J.S.2C:39-9, N.J.S.2C:39-10, and  
4 P.L.1997, c.117.

5  
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

- 8  
9 1. N.J.S.2C:39-9 is amended to read as follows:  
10 2C:39-9. Manufacture, Transport, Disposition and Defacement  
11 of Weapons and Dangerous Instruments and Appliances. a. Machine  
12 guns. Any person who manufactures, causes to be manufactured,  
13 transports, ships, sells or disposes of any machine gun without  
14 being registered or licensed to do so as provided in chapter 58 is  
15 guilty of a crime of the third degree.  
16 b. Sawed-off shotguns. Any person who manufactures, causes  
17 to be manufactured, transports, ships, sells or disposes of any  
18 sawed-off shotgun is guilty of a crime of the third degree.  
19 c. Firearm silencers. Any person who manufactures, causes to  
20 be manufactured, transports, ships, sells or disposes of any firearm  
21 silencer is guilty of a crime of the fourth degree.  
22 d. Weapons. Any person who manufactures, causes to be  
23 manufactured, transports, ships, sells or disposes of any weapon,  
24 including gravity knives, switchblade knives, ballistic knives,  
25 daggers, dirks, stilettos, billies, blackjacks, metal knuckles,  
26 sandclubs, slingshots, cesti or similar leather bands studded with  
27 metal filings, or, except as otherwise provided in subsection i. of  
28 this section, in the case of firearms if he is not licensed or registered  
29 to do so as provided in chapter 58, is guilty of a crime of the fourth  
30 degree. Any person who manufactures, causes to be manufactured,  
31 transports, ships, sells or disposes of any weapon or other device  
32 which projects, releases or emits tear gas or other substances  
33 intended to produce temporary physical discomfort or permanent  
34 injury through being vaporized or otherwise dispensed in the air,  
35 which is intended to be used for any purpose other than for  
36 authorized military or law enforcement purposes by duly authorized  
37 military or law enforcement personnel or the device is for the  
38 purpose of personal self-defense, is pocket-sized and contains not  
39 more than three-quarters of an ounce of chemical substance not  
40 ordinarily capable of lethal use or of inflicting serious bodily injury,  
41 or other than to be used by any person permitted to possess such  
42 weapon or device under the provisions of subsection d. of  
43 N.J.S.2C:39-5, which is intended for use by financial and other

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted May 9, 2013.

<sup>2</sup>Senate SBA committee amendments adopted May 9, 2013.

<sup>3</sup>Assembly ALP committee amendments adopted June 6, 2013.

1 business institutions as part of an integrated security system, placed  
2 at fixed locations, for the protection of money and property, by the  
3 duly authorized personnel of those institutions, is guilty of a crime  
4 of the fourth degree.

5 e. Defaced firearms. Any person who defaces any firearm is  
6 guilty of a crime of the third degree. Any person who knowingly  
7 buys, receives, disposes of or conceals a defaced firearm, except an  
8 antique firearm or an antique handgun, is guilty of a crime of the  
9 fourth degree.

10 f. (1) Any person who manufactures, causes to be  
11 manufactured, transports, ships, sells, or disposes of any bullet,  
12 which is primarily designed for use in a handgun, and which is  
13 comprised of a bullet whose core or jacket, if the jacket is thicker  
14 than .025 of an inch, is made of tungsten carbide, or hard bronze, or  
15 other material which is harder than a rating of 72 or greater on the  
16 Rockwell B. Hardness Scale, and is therefore capable of breaching  
17 or penetrating body armor and which is intended to be used for any  
18 purpose other than for authorized military or law enforcement  
19 purposes by duly authorized military or law enforcement personnel,  
20 is guilty of a crime of the fourth degree.

21 (2) Nothing in this subsection shall be construed to prevent a  
22 licensed collector of ammunition as defined in paragraph (2) of  
23 subsection f. of N.J.S.2C:39-3 from transporting the bullets defined  
24 in paragraph (1) of this subsection from (a) any licensed retail or  
25 wholesale firearms dealer's place of business to the collector's  
26 dwelling, premises, or other land owned or possessed by him, or (b)  
27 to or from the collector's dwelling, premises or other land owned or  
28 possessed by him to any gun show for the purposes of display, sale,  
29 trade, or transfer between collectors, or (c) to or from the collector's  
30 dwelling, premises or other land owned or possessed by him to any  
31 rifle or pistol club organized in accordance with the rules prescribed  
32 by the National Board for the Promotion of Rifle Practice; provided  
33 that the club has filed a copy of its charter with the superintendent  
34 of the State Police and annually submits a list of its members to the  
35 superintendent, and provided further that the ammunition being  
36 transported shall be carried not loaded in any firearm and contained  
37 in a closed and fastened case, gun box, or locked in the trunk of the  
38 automobile in which it is being transported, and the course of travel  
39 shall include only such deviations as are reasonably necessary under  
40 the circumstances.

41 g. Assault firearms. Any person who manufactures, causes to  
42 be manufactured, transports, ships, sells or disposes of an assault  
43 firearm without being registered or licensed to do so pursuant to  
44 N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

45 h. Large capacity ammunition magazines. Any person who  
46 manufactures, causes to be manufactured, transports, ships, sells or  
47 disposes of a large capacity ammunition magazine which is  
48 intended to be used for any purpose other than for authorized

1 military or law enforcement purposes by duly authorized military or  
2 law enforcement personnel is guilty of a crime of the fourth degree.

3 i. Transporting firearms into this State for an unlawful sale or  
4 transfer. Any person who knowingly transports, ships or otherwise  
5 brings into this State any firearm for the purpose of unlawfully  
6 selling, transferring, giving, assigning or otherwise disposing of that  
7 firearm to another individual is guilty of a crime of the second  
8 degree. Any motor vehicle used by a person to transport, ship, or  
9 otherwise bring a firearm into this State for unlawful sale or transfer  
10 shall be subject to forfeiture in accordance with the provisions of  
11 N.J.S.2C:64-1 et seq.; provided however, this forfeiture provision  
12 shall not apply to innocent owners, nor shall it affect the rights of a  
13 holder of a valid lien.

14 The temporary transfer of a firearm <sup>1</sup>shall not constitute a  
15 violation of this subsection if that firearm is <sup>3</sup>~~transferred~~  
16 transferred<sup>3</sup>:

17 (1)<sup>1</sup> while hunting ~~or~~ <sup>1</sup>~~or~~ <sup>1</sup>~~or~~ target shooting <sup>1</sup>~~or~~ <sup>1</sup>~~in~~  
18 accordance with the provisions of section 1 of P.L.1992, c.74  
19 (C.2C:58-3.1);

20 (2)<sup>1</sup> for shooting competitions sponsored by a licensed dealer,  
21 law enforcement agency, legally recognized military organization,  
22 or a rifle or pistol club which has filed a copy of its charter with the  
23 superintendent <sup>1</sup>in accordance with the provisions of section 1 of  
24 P.L.1992, c.74 (C.2C:58-3.1) <sup>1</sup>; <sup>1</sup>or

25 (3)<sup>1</sup> for participation in a training course conducted by a certified  
26 instructor in accordance with the provisions of section 1 of  
27 P.L.1997, c.375 (C.2C:58-3.2) <sup>1</sup>~~or~~ <sup>1</sup>

28 <sup>1</sup>~~the~~ <sup>1</sup>The transfer of any firearm that uses air or carbon  
29 dioxide to expel a projectile~~or~~ <sup>1</sup>; or the transfer of an antique  
30 firearm shall not constitute a violation of this subsection.

31 (cf: P.L.2007, c.298, s.1)

32  
33 2. N.J.S.2C:39-10 is amended to read as follows:

34 2C:39-10. Violation of the regulatory provisions relating to  
35 firearms; false representation in applications.

36 a. (1) Except as otherwise provided in paragraph (2) and  
37 paragraph (4) of this subsection, any person who knowingly violates  
38 the regulatory provisions relating to manufacturing or wholesaling  
39 of firearms <sup>1</sup>~~[(section 2C:58-1)]~~ N.J.S.2C:58-1<sup>1</sup>, retailing of  
40 firearms <sup>1</sup>~~[(section 2C:58-2)]~~ N.J.S.2C:58-2<sup>1</sup>, permits to purchase  
41 certain firearms <sup>1</sup>~~[(section 2C:58-3)]~~ N.J.S.2C:58-3<sup>1</sup>, permits to  
42 carry certain firearms <sup>1</sup>~~[(section 2C:58-4)]~~ N.J.S.2C:58-4<sup>1</sup>, licenses  
43 to procure machine guns or assault firearms <sup>1</sup>~~[(section 2C:58-5)]~~  
44 N.J.S.2C:58-5<sup>1</sup>, or incendiary or tracer ammunition <sup>1</sup>~~[(section~~  
45 2C:58-10)] N.J.S.2C:58-10<sup>1</sup>, except acts which are punishable

1 under section <sup>1</sup>**[2C:39-5]** N.J.S.2C:58-5<sup>1</sup> or section <sup>1</sup>**[2C:39-9]**  
2 N.J.S.2C:58-2<sup>1</sup>, is guilty of a crime of the fourth degree.

3 (2) A licensed dealer who knowingly violates the provisions of  
4 subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2  
5 is a disorderly person.

6 (3) <sup>2</sup>**[If, upon review, a law enforcement agency determines that**  
7 a licensed dealer knowingly and intentionally has sold, transferred,  
8 assigned, or otherwise disposed of an inordinate number of firearms  
9 that, subsequent to that sale, transfer, assignment, or disposal, have  
10 been recovered as abandoned or discarded firearms, or as firearms  
11 seized or recovered because they were unlawfully possessed, or as  
12 firearms used for an unlawful purpose, or as firearms recovered  
13 from the scene of a crime, or as firearms reasonably believed to  
14 have been used or associated with the commission of a crime, that  
15 dealer's license shall, after hearing, be revoked permanently by the  
16 State Police.] If, upon review, a law enforcement agency  
17 determines that a licensed dealer has sold, transferred, assigned, or  
18 otherwise disposed of an inordinate number of firearms and that  
19 licensed dealer knew, or should have known, that the firearms  
20 would be used in the commission of a crime or would be transferred  
21 to a person in order for the firearms to be used for an unlawful  
22 purpose, that dealer's license shall, after a hearing, be  
23 <sup>3</sup>permanently<sup>3</sup> revoked <sup>3</sup>[permanently by the State Police]<sup>3</sup>.<sup>2</sup>

24 (4) A licensed dealer who sells or transfers a firearm to a person  
25 knowing that person intends to sell, transfer, assign, or otherwise  
26 dispose of that firearm to a person who is disqualified from  
27 possessing a firearm under State or federal law is guilty of a crime  
28 of the second degree. Notwithstanding any other provisions of law  
29 to the contrary, the sentence imposed for a conviction under this  
30 subsection shall include a mandatory minimum <sup>1</sup>**[18 month]**<sup>1</sup> term  
31 of imprisonment of 18 months, during which the defendant shall be  
32 ineligible for parole; provided however, if the firearm was used in  
33 the commission of a crime, the sentence imposed under this  
34 subsection shall include a mandatory minimum term of  
35 imprisonment of three years, during which the defendant shall be  
36 ineligible for parole. Further, a person convicted under this  
37 subsection shall be permanently disqualified from <sup>1</sup>**[obtaining]**  
38 holding<sup>1</sup> a retail license under N.J.S.2C:58-2.

39 b. Any person who knowingly violates the regulatory  
40 provisions relating to notifying the authorities of possessing certain  
41 items of explosives <sup>1</sup>**[(section 2C:58-7)]** N.J.S.2C:58-7<sup>1</sup>, or of  
42 certain wounds <sup>1</sup>**[(section 2C:58-8)]** N.J.S.2C:58-8<sup>1</sup> is a disorderly  
43 person.

44 c. Any person who gives or causes to be given any false  
45 information, or signs a fictitious name or address, in applying for a  
46 firearms purchaser identification card, a permit to purchase a  
47 handgun, a permit to carry a handgun, a permit to possess a machine

1 gun, a permit to possess an assault firearm, or in completing the  
2 certificate or any other instrument required by law in purchasing or  
3 otherwise acquiring delivery of any rifle, shotgun, handgun,  
4 machine gun, or assault firearm or any other firearm, is guilty of a  
5 crime of the third degree.

6 d. Any person who gives or causes to be given any false  
7 information in registering an assault firearm pursuant to section 11  
8 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault  
9 firearm was rendered inoperable pursuant to section 12 of P.L.1990,  
10 c.32 (C.2C:58-13) commits a crime of the fourth degree.

11 e. Any person who knowingly sells, gives, transfers, assigns or  
12 otherwise disposes of a firearm to a person who is under the age of  
13 18 years, except as permitted in section 14 of P.L.1979, c.179  
14 (C.2C:58-6.1), is guilty of a crime of the third degree.  
15 Notwithstanding any other provision of law to the contrary, the  
16 sentence imposed for a conviction under this subsection shall  
17 include a mandatory minimum three-year term of imprisonment,  
18 during which the defendant shall be ineligible for parole.

19 f. Unless the recipient is authorized to possess the handgun in  
20 connection with the performance of official duties under the  
21 provisions of N.J.S.2C:39-6, any person who knowingly sells,  
22 gives, transfers, assigns or otherwise disposes of a handgun to a  
23 person who is under the age of 21 years, except as permitted in  
24 section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of  
25 the third degree.

26 g. Any person who knowingly gives or causes to be given any  
27 false information or knowingly engages in any other fraudulent  
28 conduct in applying for an exemption to purchase more than one  
29 handgun in a 30-day period in violation of the provisions of section  
30 4 of P.L.2009, c.186 (C.2C:58-3.4) shall be guilty of a crime of the  
31 third degree. The presumption of nonimprisonment set forth in  
32 N.J.S.2C:44-1 shall not apply to persons convicted under the  
33 provisions of this subsection.

34 (cf: P.L.2009, c.186, s.3)

35  
36 3. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to  
37 read as follows:

38 2. a. A court imposing a sentence of incarceration for a crime  
39 of the first or second degree enumerated in subsection d. of this  
40 section shall fix a minimum term of 85% of the sentence imposed,  
41 during which the defendant shall not be eligible for parole.

42 b. The minimum term required by subsection a. of this section  
43 shall be fixed as a part of every sentence of incarceration imposed  
44 upon every conviction of a crime enumerated in subsection d. of  
45 this section, whether the sentence of incarceration is determined  
46 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any  
47 other provision of law, and shall be calculated based upon the  
48 sentence of incarceration actually imposed. The provisions of

1 subsection a. of this section shall not be construed or applied to  
2 reduce the time that must be served before eligibility for parole by  
3 an inmate sentenced to a mandatory minimum period of  
4 incarceration. Solely for the purpose of calculating the minimum  
5 term of parole ineligibility pursuant to subsection a. of this section,  
6 a sentence of life imprisonment shall be deemed to be 75 years.

7 c. Notwithstanding any other provision of law to the contrary  
8 and in addition to any other sentence imposed, a court imposing a  
9 minimum period of parole ineligibility of 85 percent of the sentence  
10 pursuant to this section shall also impose a five-year term of parole  
11 supervision if the defendant is being sentenced for a crime of the  
12 first degree, or a three-year term of parole supervision if the  
13 defendant is being sentenced for a crime of the second degree. The  
14 term of parole supervision shall commence upon the completion of  
15 the sentence of incarceration imposed by the court pursuant to  
16 subsection a. of this section unless the defendant is serving a  
17 sentence of incarceration for another crime at the time he completes  
18 the sentence of incarceration imposed pursuant to subsection a., in  
19 which case the term of parole supervision shall commence  
20 immediately upon the defendant's release from incarceration.  
21 During the term of parole supervision the defendant shall remain in  
22 release status in the community in the legal custody of the  
23 Commissioner of the Department of Corrections and shall be  
24 supervised by the State Parole Board as if on parole and shall be  
25 subject to the provisions and conditions of section 3 of P.L.1997,  
26 c.117 (C.30:4-123.51b).

27 d. The court shall impose sentence pursuant to subsection a. of  
28 this section upon conviction of the following crimes or an attempt  
29 or conspiracy to commit any of these crimes:

- 30 (1) N.J.S.2C:11-3, murder;
- 31 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 32 (3) N.J.S.2C:11-5, vehicular homicide;
- 33 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 34 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),  
35 disarming a law enforcement officer;
- 36 (6) N.J.S.2C:13-1, kidnapping;
- 37 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 38 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of  
39 subsection c. of N.J.S.2C:14-2, sexual assault;
- 40 (9) N.J.S.2C:15-1, robbery;
- 41 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 42 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated  
43 arson;
- 44 (12) N.J.S.2C:18-2, burglary;
- 45 (13) subsection a. of N.J.S.2C:20-5, extortion;
- 46 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),  
47 booby traps in manufacturing or distribution facilities;
- 48 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;

- 1       (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;  
2       (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or  
3       possessing chemical weapons, biological agents or nuclear or  
4       radiological devices; **【or】**  
5       (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first  
6       degree; or  
7       (19) subsection i. of N.J.S.2C:39-9, firearms trafficking.  
8       e. (Deleted by amendment, P.L.2001, c.129).  
9       (cf: P.L.2007, c.341, s.6)  
10  
11       4. This act shall take effect on the first day of the third month  
12       following enactment.